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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,955	05/21/2007	Jean-Francois Bedon		9318

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BRINKS HOFER GILSON & LIONE  
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CHICAGO, IL 60610

EXAMINER
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RUSH, KAREEN KAY

ART UNIT	PAPER NUMBER
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3781

MAIL DATE	DELIVERY MODE
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08/03/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/579,955	<b>Applicant(s)</b> BEDON, JEAN-FRANCOIS	
	<b>Examiner</b> KAREEN RUSH	<b>Art Unit</b> 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1, 2, 4, 5, 7-9, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Longo (US4993611).

Regarding claim 1, Longo teaches a practical device (Fig. 1) for a liquid container (Fig. 1 at 4) with an essentially cylindrical shape (Fig. 1 at 4). The device comprises means capable of taking on an essentially oblong configuration (Fig. 1 at 28) and means capable of taking on an essentially flat configuration (Fig. 1 at 22), attached to the container in such a way as to allow the means to maintain an essentially oblong configuration and the means capable of taking on an essentially flat configuration, respectively, in a configuration that essentially follows the circumference of the container, in order to allow for stacking of the device and container in units (the practical device is attached to the container in such a way that does not hinder the stacking of the container), as well as the joint or selective disassembling of the means.

Regarding claim 2, the means capable of taking on an essentially oblong configuration has a profile made of plastic (Fig. 1 at 28 is composed of plastic),

especially a profile having a closed section or a C shape (in the below annotated Fig. 1, the “C” shaped profile is composed of plastic).

Regarding claim 4, the means capable of taking on an essentially oblong configuration comprises click-lock means or are connected with click-lock means (the oblong configuration being integral with member 14 is connected to a user through click lock means in the below annotated Fig. 1).

Regarding claim 5, the means capable of taking on an essentially oblong configuration comprises at least a part allows for deformation, especially a part with an accordion-like structure (Fig. 1 at 36, shows an accordion-like structure that deforms when it is placed around the container, 4, in order to hold the container).

Regarding claim 7, the means capable of taking on an essentially flat configuration has a shape with is complementary to the container (the shape of member 22 in Fig. 1 is complementary to the container because it covers about 1/4 of the container).

Regarding claim 8, the means capable of taking on an essentially oblong configuration and/or the means capable of taking on an essentially flat configuration are pre-tensioned in one of their configurations (member 22 in Fig. 1 is stretched or strained when the container is inserted within the accordion member).

Regarding claim 9, the liquid container equipped with a device is in a cup form (Fig. 1 at 4).

Regarding claim 11, the term “welding”, such limitation is being treated as the product-by-process claim, and the determination of patentability of a product-by-process claim is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” *In re Thorpe*, 227 USPQ 964, (Fed. Cir.1985). In this case, the cited limitations failed to distinguish the claimed structure from the patented can and lid (5813561). See MPEP § 2113

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Longo (US4993611) in view of Christine (US5564591).

Regarding claim 3, the Longo reference discloses the invention substantially as claimed. The Longo reference DIFFERS in that it does not specifically include that the flat configuration is composed of foil, as claimed. Attention, however, is directed to Christine, which discloses a practical device (Fig. 2 at 10). The device has a flat portion (Fig. 4 at 22) formed from a foil material (column 4, paragraph 1). Therefore, it would have been obvious to one

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of ordinary skill in the art at the time the invention was made to have modified Longo by employing the flat portion from foil, in view of the teachings of Christine, in order to create a more durable device capable of possessing enough strength to secure the container to the device.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Longo (US4993611) in view of Gale (US6364151).

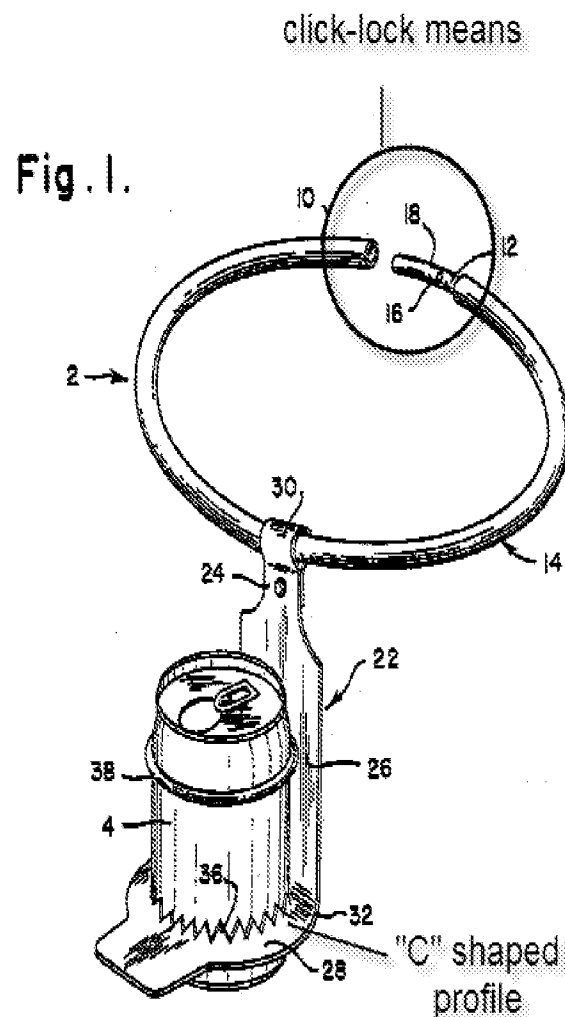
Regarding claim 6, the Longo reference discloses the invention substantially as claimed. The Longo reference DIFFERS in that it does not specifically include that the means capable of taking on an essentially flat configuration form or comprise an information medium, as claimed. Attention, however, is directed to Gale, which discloses device (Fig. 2). The device has a flat portion (Fig. 2 at 29) formed from with an information medium (column Fig. 2 at 82). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Longo by employing the flat portion with an information medium, in view of the teachings of Christine, in order to a device that a user knows is made of recyclable materials.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Longo (US4993611) in view of Evans (US6047852).

Regarding claim 10, the Longo reference discloses the invention substantially as claimed. The Longo reference further discloses that member 28 in Fig. 1 is composed of plastic. The Longo reference DIFFERS in that it does not specifically include the container is made of a material identical to at least

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one part of the device (such as part 28 in Fig. 1 which is composed of plastic), as claimed. Attention, however, is directed to Evans, which discloses a plastic container (Fig. 1 at 12). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Longo by employing a plastic container to provide a user with multiple uses for the device and allowing the device to be used with a variety of difference containers.



***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Reeves reference discloses a practical device. The Barnes reference discloses a practical device. The Roe reference discloses a practical device. The Evans reference discloses a practical device. The Izraelev reference discloses a practical device. The Morris reference discloses a practical device. The Whitaker reference discloses a practical device. The Evans reference discloses a practical device. The Chang reference discloses a practical device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAREEN RUSH whose telephone number is (571)270-5611. The examiner can normally be reached on Monday-Friday (8:00 am - 5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anthony D Stashick/  
Supervisory Patent Examiner, Art  
Unit 3781

K.R.  
AU:3781